

**UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
ANDERSON DIVISION**

ANNIE MASON BENSON,

Plaintiff,

vs.

SALLIE MAE, INC.

Defendant.

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Case No. 8:10-CV-00497-JMC

**DEFENDANT SALLIE MAE'S MOTION FOR LEAVE TO FILE A SUR-REPLY TO
PLAINTIFF'S REPLY TO ORDER GRANTING MOTION TO STAY**¹

Defendant Sallie Mae, Inc. ("Sallie Mae"), seeks leave to file the brief sur-reply to Plaintiff's Reply to Order Granting a Motion to Stay, attached as Exhibit 1, to correct certain factual inaccuracies contained in the Reply which Sallie Mae cannot leave unanswered.² Those inaccuracies concern: (1) the fact that Plaintiff had not scheduled most depositions to date in this matter before the parties' agreement to a stay pending mediation; (2) the fact that Sallie Mae does not control the deponents sought by Plaintiff in India; (3) Defendant has not insisted that depositions take place in Delaware but has been flexible with location and date; (4) Defendant has not been "truculent" in cooperating with discovery, but rather has worked diligently to meet Plaintiff's demands.

¹ Pursuant to Local Rule 7.04, it is submitted that this document contains a full explanation of the issues so that a separate memorandum would be superfluous and would serve no useful purpose.

² Counsel for Sallie Mae conferred with counsel for Benson on Tuesday, December 14, 2010, regarding the subject of this Motion. Benson does not object to Sallie Mae filing a sur-reply.

Dated this 14th day of December, 2010.

Respectfully submitted,

By: s/ Peter B. Murphy
Peter B. Murphy(Fed. I.D. #9917)

OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.
300 North Main Street
Post Office Box 2757
Greenville, South Carolina 29602
Telephone: (864) 271-1300
Facsimile: (864) 235-4754
E-Mail: Peter.Murphy@odnss.com

and

Bonnie L. Martin (admitted *pro hac vice*)
(Indiana No. 20248-18)
OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.
111 Monument Circle
Suite 4600
Indianapolis, IN 46204
Telephone: (317) 916-1300
Facsimile: (317) 916-9076
E-Mail: Bonnie.Martin@odnss.com

Attorneys for Defendant Sallie Mae, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of December, 2010, I electronically filed the foregoing **DEFENDANT SALLIE MAE'S MOTION FOR LEAVE TO FILE A SUR-REPLY TO PLAINTIFF'S REPLY TO ORDER GRANTING MOTION TO STAY** with the Clerk of Court using the CM/ECF system, and that a copy has been electronically served via CM/ECF on

Penny Hays Cauley, Esq.
HAYS CAULEY, P.C.
549 West Evans Street, Suite E
Florence, SC 29501

Leonard A. Bennett, Esq.
CONSUMER LITIGATION ASSOCIATES
12515 Warwick Boulevard
Suite 100
Newport News, VA 23606

By: s/ Peter B. Murphy
Peter B. Murphy

OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.
300 North Main Street
Post Office Box 2757
Greenville, South Carolina 29602
Telephone: (864) 271-1300
Facsimile: (864) 235-4754
E-Mail: Peter.Murphy@odnss.com

and

Bonnie L. Martin (admitted *pro hac vice*)
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OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.
111 Monument Circle
Suite 4600
Indianapolis, IN 46204
Telephone: (317) 916-1300
Facsimile: (317) 916-9076
E-Mail: Bonnie.Martin@odnss.com

Attorneys for Defendant
Sallie Mae, Inc.

9563449.2 (OGLETREE)